



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/689,326

10/20/2003

Mark A. Back

PLCR/05US

2860

26875 7590 05/29/2007
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

05/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/689,326

Applicant(s)

BACK ET AL.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The applicant has added new claim 21 in the paper dated 3/5/07. Pending claims 1-21 have been examined below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,344,566 to Miles et al.

Regarding claims 1, 2, 3, 12 and 18-20, Miles discloses a roof having an eaves beam (fig. 1: see unlabelled board supporting rafters 8), a plurality of rafters (8), a mounting arm 98) connected to the eaves beam (via the structure), a plurality of gutter hanging brackets (12) mounted to the rafters exterior of the eaves beam and a soffit (2) supported by the mounting arms and the brackets and forming a triangular space under the roof. However, Miles does not disclose the bracket 98 as being supported by the eaves beam. Miles discloses in figure 8 a bracket extended upwardly (12) to be supported upon component 150. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Miles by extending the bracket upwardly, as shown in fig. 8, in order to secure the bracket to components

which are more structurally sound, such as the eaves beam, in order to better secure the entire structure. This would be an obvious design choice.

Regarding claims 4, 5 and 13, Miles discloses the mounting arm as having a trim plate with horizontal edge (74) which the soffit is attached to.

Regarding claims 6, 7 and 14, Miles discloses the gutter hanging brackets as having horizontal tabs (see horizontal tabs adjacent to where 4 and 12 point) which attach to the soffit.

Regarding claim 8, Miles discloses the brackets as supporting gutters (fig. 1).

Regarding claims 9, 10, 15 and 16, Miles discloses the soffit as protecting the underside of the rafters (fig. 1) and creating a hollow area.

Claims 11 and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,344,566 to Miles et al. in view of U.S. Patent No. 4,461,128 to Knoebl.

Regarding claims 11 and 17, Miles does not particularly disclose the soffit as being made of vinyl. Knoebl discloses the use of vinyl soffits (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Miles by using a vinyl soffit in order to prevent corrosion.

Allowable Subject Matter

Claim 21 is allowed. No prior art of record discloses a conservatory roof system having a mounting arm contiguously attached to and supported by an eaves beam, and the mounting arm having a vertical external trim plate with a horizontal ledge extending perpendicularly, a plurality of gutter hangers attached to the rafters exterior to the eaves beam, a gutter, and a horizontal vinyl soffit running along the eaves beam and resting upon the horizontal ledge of the mounting arms with a triangular hollow formed under the roof overhang.

Response to Arguments

Applicant's arguments filed 3/5/07 have been fully considered but they are moot under new grounds of rejections necessitated by the applicant's amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3635

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK 

5/22/07



RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER

